

United States  
Court of Appeals  
For the Ninth Circuit

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OTTO W. HEIDER,  
*Appellant,*

vs.

SAMUEL A. McALLISTER, Trustee in Bankruptcy  
of the Estate of Rand Truck Lines, Inc.,  
*Appellee.*

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**Brief of Appellant**

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Appeal from the United States District Court  
for the District of Oregon

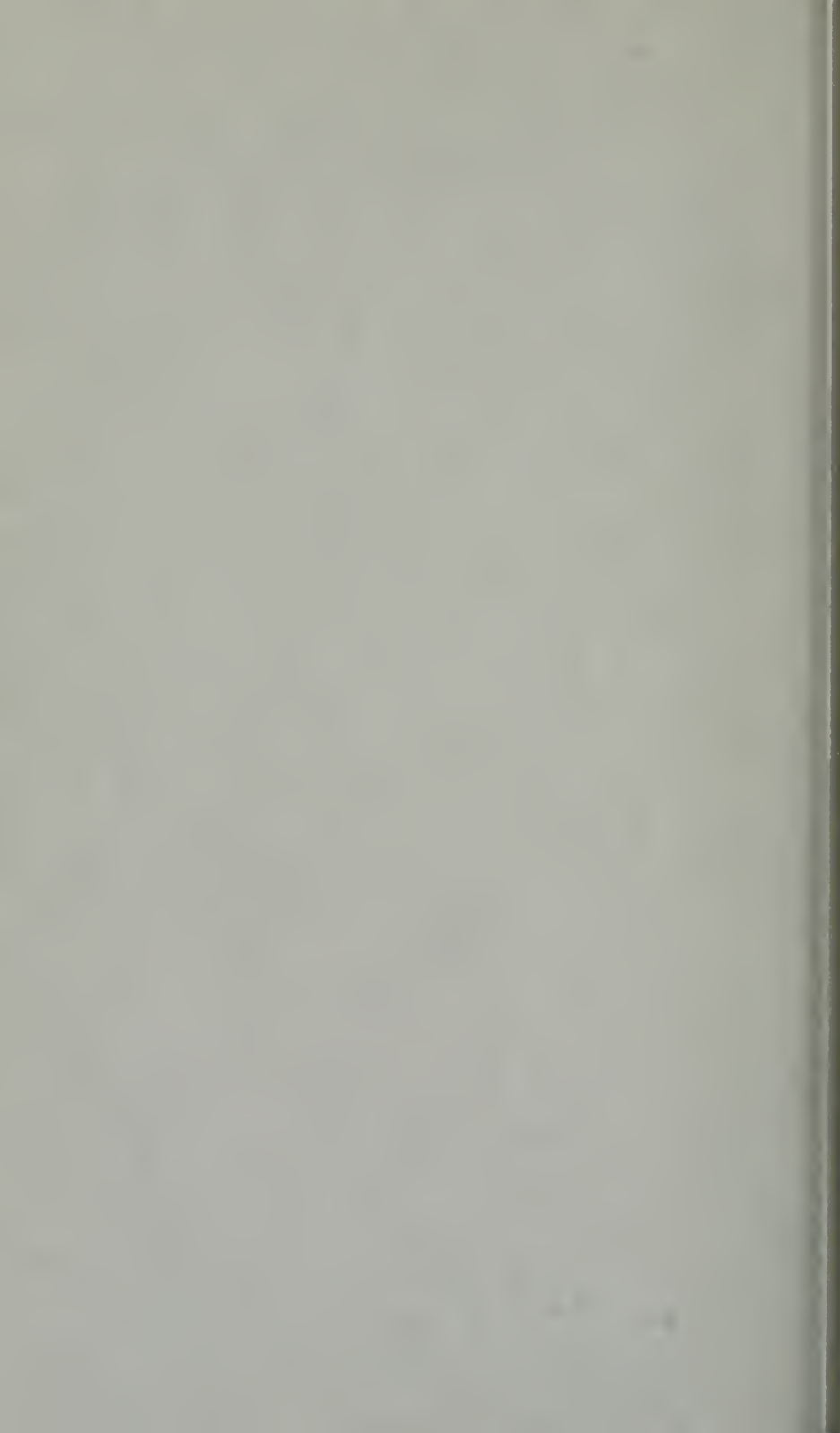
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**Brief of Appellant**

---

Appeal from the United States District Court  
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**JURISDICTION**

Rand Truck Line, Inc., upon its voluntary petition, was adjudged a bankrupt on May 23, 1949 (R. 4). This appellant filed his proof of secured debt, with the counterparts of the original note, mortgage and assignment attached as an exhibit thereto, on June 30, 1949 (R. 5-19).

On September 19, 1949, the trustee invoked the jurisdiction of the state court by bringing a plenary

action against appellant and others (Ex. 33), and that suit is still pending.

Some years later, on January 31, 1956, the trustee filed in the bankruptcy court objections to appellant's 1949 proof of debt (R. 20-27), raising the same issues against appellant as involved in the state court proceeding (see Exhibit "A" to this brief). Supplemental objections were filed by the trustee on March 14, 1956 (R. 27-28).

Motion to dismiss the objections on the jurisdictional ground involving the state court proceeding was filed by appellant on March 14, 1956 (R. 29-30). The motion was denied as to the first objections (R. 155), but the supplementary objections were removed from consideration (R. 221). The Referee proceeded to hearing (R. 150 et seq.).

By order entered October 2, 1956 (R. 37) the Referee sustained the trustee's objections. A petition for review (R. 38-39) was filed by appellant on October 10, 1956.

The District Court by order filed March 28, 1957, affirmed the order of the Referee and denied the petition for review (R. 45-46).

This appeal is taken (R. 46) from the foregoing final order of the District Court, by virtue of Title 11 U.S.C.A., §47, and Title 28 U.S.C.A., §1291.

## STATEMENT OF THE CASE

### *On Jurisdiction Issue*

A hearing was held on the appellant's lien on July 6, 1949 (R. 51 et seq.). At that time the Referee ordered (R. 107-108) that the property be sold free from lien and that the Court would not at that time pass on the question of the amount owing or any questions that might be raised as to the validity of the mortgage. The Referee stated (R. 108):

"Those are questions that Mr. Heider will have ample opportunity to meet at the time, but it is hoped, Mr. Heider, that we can sell this truck line, the equipment, as a going concern in order to get some value out of the permits, and it would be to the advantage of all. We expect to sell it for considerably more than the amount you claim and the matter of determining the validity and amount of your lien will be taken up and if the Trustees have any objections to it you will be served with the objections and then there will be a further hearing on it. I am not determining that matter at all."

In fact such objections were not filed until nearly seven years later (R. 20 et seq.), and there was no further hearing until March 14, 1956 (R. 150 et seq.). In the meantime, on September 19, 1949, the Trustee sued this appellant and others in the Circuit Court of the State of Oregon, for the County of Multnomah (Ex. 33, R. 264, R. 152). As stated in the Referee's certificate (R. 41-42):

“On the same day, September 1, 1949, the trustee promptly filed a petition alleging that certain stockholders of the bankrupt had converted corporate funds to their own use, and had applied them to the payment of personal obligations owing to Otto Heider. The trustee requested authority to institute an action in the State Court against the stockholders and Otto Heider for the recovery of said corporate funds. An order was entered on the same day authorizing action. Such an action was filed in the Circuit Court of the State of Oregon for the County of Multnomah on September 19, 1949.”

The history of the state court litigation is succinctly as follows (Ex. 33): The trustee's original complaint was filed on September 19, 1949. The trustee's amended complaint was filed on July 18, 1951. The trustee's second amended complaint was filed on September 4, 1952. The trustee's third amended complaint was filed on February 16, 1953. The trustee's fourth amended complaint was filed on July 3, 1953. The trustee's reply to the answer of this appellant was filed on December 5, 1955. Of course, there were also various other factual pleadings, motions and demurrers.

The issues on the merits in the state court proceeding as against appellant are identical with the issues here.



*On Other Issues*

In the State Court action the trustee's claims are based on allegations that the obligations to Mr. Heider were ultra vires for the bankrupt, were usurious, and constituted a diversion of assets in fraud of creditors. (See Exhibit "A" to this brief where the relevant parts of the trustee's pleadings in the state court action are set out.) The same allegations are relied upon in the trustee's objections to the proof of debt in this proceeding (R. 20-26). The same allegations appear in the Referee's findings here (R. 30-36).

We assert that the findings are not supported by the evidence, and that the effect given the findings involves several grave errors in law.

After having originally prepared a lengthy argument on those matters, however, we have now determined not to press those grounds of appeal. This is done, not because those grounds of appeal are without merit, but because it is our submission that this appeal can properly be disposed of on the jurisdictional issue. If that is true, then it is idle and burdensome to submit involved and intricate factual analyses and legal arguments on other issues.

**SPECIFICATION OF ERROR**

The lower court erred in deciding that, after the trustee had voluntarily and with authority submitted the issues to the state court, he is not bound by the

state court proceedings in the plenary action, but may submit the identical issues for summary determination by the Referee while the state court proceeding is still pending.

### Argument

The sale of assets free from appellant's lien was ordered in 1949. The Referee then thought that, if the trustee had any question as to the validity of appellant's claim, the trustee would file objections. Instead the trustee decided upon, and the Referee consented to, the bringing of a plenary suit in the state court.

That suit is still pending and involves issues raised by the trustee of fraudulent transfer, ultra vires and usury. Of course, questions concerning what is ultra vires for an Oregon corporation, and concerning the application of the Oregon interest statutes, are particularly suitable for determination by an Oregon court; and a plenary action in a state court is the proper remedy for recovery of alleged fraudulent transfers.

The parties consented to the jurisdiction of the state court, appeared therein, and spent considerable time developing the issues on the pleadings. The issues are now before the state court ready for determination.

After the lapse of nearly seven years while proceedings were had in the state court, however, the

trustee in 1956 filed his objections in the bankruptcy court raising identically the same issues. Appellant did not consent to that procedure but filed a motion to dismiss based upon the state court proceeding.

The Referee denied the motion. His grounds for doing so appear from his comments (R. 155):

“\* \* \* but this court is not accustomed to waiting 6, 7, and 10 years to get things determined. The purpose of the Bankruptcy Act is to liquidate the assets as quickly as possible and see that they are paid to the creditors according to the equities of the case and pro rata to the general creditors. I think Mr. Heider is just as anxious as the rest of us to try to get this matter determined once and for all.”

In other words, the Referee thought (1) the proceedings were taking too much time in the state court, and (2) it was desirable “to get this matter determined once and for all.”

Factually both of his conclusions are true, but neither one of them warrant his action: (1) Regardless of what opinion he may have of the state court, it is not for the bankruptcy court to supervise or review the proceedings of a state court. *Luikart v. Farmers' Lumber Co.*, 38 F.2d 588. (2) The Referee's action does not terminate the controversy. If it were sustained, it would simply permit the trustee to return to the state court and claim *res judicata*. Thus, by the Referee's summary and arbitrary de-

termination of the issues, including those involving strictly local law, the trustee would claim that this appellant as defendant would be deprived of a trial in the plenary action to which both parties consented.

***Suit Was Properly Brought in the State Court***

The Bankruptcy Act contemplates that the trustee may bring plenary suits in the state court, and consent of the bankruptcy court in a case such as this may not be required. 2 Collier on Bankruptcy (14th ed.) 47.05, pp. 1743-4. In fact, consent was given here. The giving of such consent was proper. *Ex parte Baldwin*, 291 U.S. 610, 619.

“The general principle that from the time of the filing of the petition in bankruptcy the estate is in custodia legis and within the exclusive jurisdiction of the bankruptcy court \* \* \* is in no way inconsistent with the exercise of jurisdiction by a State Court in a case instituted therein, where the subject matter is within the jurisdiction of the State Court \* \* \*.” *Herman v. Cullerton*, 13 F. 2d 754, 755.

In effect, the bankruptcy court exercises its “exclusive” jurisdiction, and the discretion devolving therefrom, by permitting the prosecution of the state court action. *Thompson v. Magnolia Co.*, 309 U.S. 478, 483. But, once the state court has jurisdiction, if it errs, “such error is reviewable only in the appellate court of the state.” 8 C.J.S. 928, Bankruptcy §261(b).

### ***The Issues Are Identical***

While the trustee's claims for relief may be somewhat different in his action in the state court and in his subsequent objections to the claim in the bankruptcy court, the issues are identical. As Exhibit "A" to this brief there are printed from Exhibit 33 the relevant parts of the trustee's Fourth Amended Complaint in the state court proceeding and of his Reply to this appellant's Answer thereto. In Exhibit "A" there are also cross-references to the trustee's objections to appellant's proof of claim (R. 20-26), and to the Referee's findings of fact (R. 30-36). The comparison proves the identity of issues.

In his objections the trustee in effect (and usually verbatim) copied his allegations from his pleadings in the state court proceeding. In his findings the Referee followed the trustee's state court allegations very closely except that he summarized some evidential allegations.

### ***Clearly the Trustee Is Bound by the State Court Proceedings***

It is no longer subject to question but that, where the trustee has voluntarily and with authority invoked the jurisdiction of the state court and submitted the issues to it for determination, he cannot question the right of the state court to determine the controversy, and cannot obtain another determination in the bankruptcy court. *Herman v. Cul-*

*lerton, supra*, 13 F. 2d at 756; *In re American Fidelity Corp.*, 28 F. Supp. 462; *Van Zandt v. Parson*, 81 Or. 453, 456, 159 Pac. 1153.

Thus, in *Grant v. Buckner*, 172 U.S. 232, 238, the Court held: "The [Federal] receiver voluntarily went into the state court, and having voluntarily gone there cannot question the right of that court to determine the controversy between himself and the defendant." Again, in *Winchester v. Heiskell*, 119 U.S. 450, 453, the Court held, despite what is now 28 U.S.C.A. §1334: "The assignee in bankruptcy appeared in the State court and litigated his rights there. This he had authority to do, and the judgment in such action is binding on him. This we have many times decided."

See also *Fischer v. Pauline Oil Co.*, 309 U.S. 294, 303; 1 Collier on Bankruptcy (14th ed.) 2.07, p. 158.

***The Principle Is Still Applicable Where the State Court Has Not Yet Rendered Judgment***

The mere fact that the state court litigation has not yet been concluded with a judgment on the merits does not vary the principle. The reasons are succinctly stated *In re Graceland*, 73 F. Supp. 158, 160, as follows:

"The issue of the claims to the title to the alleged asset was to be determined in the State Court. That was the clear, expressed intention of the Referee and it was the understanding of the parties. Once that course was determined upon



the Bankruptcy Court should take no action to affect the possession of the property, or make orders which would render ineffective the orders and judgments of the State Court to which it had not only conferred jurisdiction but in which court it had directed the parties to try the title of the property. Thereafter the possession, control and final disposition of the property are solely within the jurisdiction of the said State Court. Of course it follows that should the trustee return to the Bankruptcy Court a successful litigant, then the care, sale and disposition of the asset would be under the exclusive control of the Bankruptcy Court."

In *Scott v. Kelly*, 22 Wall. (89 U.S.) 57, 59, the assignee in bankruptcy voluntarily submitted to the jurisdiction of the state court and presented his claim for adjudication by that court. The Court held: "It is now too late to object to the power of the State court to act in the premises and render judgment."

### CONCLUSION

It is submitted that the action taken below in effect deprives the state court of its power to act in the premises and to proceed to render its own judgment. Once the trustee has properly invoked the jurisdiction of the state court and submitted the issues to it in a plenary action, the bankruptcy court ought not to interfere by a purported determination of the issues in summary proceedings. Even if the

state court should err, the bankruptcy court has no supervisory, corrective or appellate power. The final judgment of the state court on the issues litigated should be controlling. Of course, should the trustee return from the state court a successful litigant, then the bankruptcy court would have exclusive jurisdiction over the disposition of the proceeds. If the trustee returns with an adverse decision, the bankruptcy court ought not be able to reach a contrary decision on the issues litigated.

It is submitted that the decision below should be reversed.

Respectfully submitted,

WILLIAM E. DOUGHERTY,

JACK H. CAIRNS,

*Attorneys for Appellant.*

Portland, Oregon  
April 1958



**EXHIBIT "A"**

Text of the relevant parts of the Trustee's Fourth Amended Complaint, and of his Reply to claimant's Answer thereto, in the proceeding in the Circuit Court of the State of Oregon, for the County of Multnomah, entitled

No. 190-145

Samuel A. McAllister, Trustee in Bankruptcy  
for Rand Truck Line, Inc., a bankrupt,  
Plaintiff,

vs.

Vern Markee, Florence Markee, his wife,  
Loren Markee, Harold Macy, Beryl B. Taylor  
and Otto Heider,

Defendants.

These documents are included in Exhibit 33.

**TRUSTEE'S FOURTH AMENDED COMPLAINT**

Comes now the plaintiff and for his fourth amended complaint, alleges:

**I.**

(Omitted as containing formal allegations.)

**II.**

That on or about the 28th day of September, 1944, and at a time when the assets of said corporation did not exceed its liabilities and at a time when said corporation was operating at a net loss, the defendants Vern Markee, Florence Markee and

Loren Markee purchased 4000 shares of the capital stock of the Rand Truck Line, Inc., from Robert R. Rand and Mrs. R. R. Rand, also known as Golda I. Rand; that said purchase was made by such defendants in their individual capacities and such shares of stock, except for transfer of portions thereof thereafter made to the defendants Harold Macy and Beryl B. Taylor, defendants herein, were owned by them at all times hereinafter, mentioned; that the defendant Otto Heider loaned and advanced to the said defendants, Vern Markee, Loren Markee and Florence Markee, and paid to the said Robert R. Rand and Mrs. R. R. Rand, also known as Golda I. Rand for and on their behalf to aid and assist them to purchase said stock the sum of \$31,500.00; that the said defendants Vern Markee, Florence Markee, Loren Markee attempted to bind and obligate the said Rand Truck Line, Inc., a corporation, to the payment of such personal obligations, namely, payment to Otto Heider of the monies advanced by the said Otto Heider to the said Vern Markee, Florence Markee and Loren Markee individually for the purchase of said capital stock by causing the said Rand Truck Line, Inc., acting through the said Vern Markee, Florence Markee and Loren Markee, to execute a purported note and mortgage in the face amount of \$43,560.00 including interest, in favor of Mrs. R. R. Rand, also known as Golda I. Rand, which said note and mortgage was immediately and

as a part of the same transaction delivered to the said Otto Heider.

(Compare objections, R. 20-21, and findings, R. 30-31.)

### III.

(Omitted as relating to other defendants.)

### IV.

That between September 28, 1944, and until August 7, 1946, the defendants, Vern Markee, Florence Markee and Loren Markee and Harold Macy diverted and caused to be diverted to their own use and benefit and paid and caused to be paid to the defendant Otto Heider upon said purported note and mortgage large sums of money belonging to and owned by said Rand Truck Line, Inc., namely approximately \$1000.00 per month during said period; that on and at a time when there remained a purported balance of \$13,168.00 upon said alleged note and mortgage a second and subsequent purported note and mortgage was executed by said defendants, purporting to bind the said Rand Truck Line, Inc., to pay said balance in addition to other moneys then advanced by the said Otto Heider on behalf of the said Rand Truck Line, Inc.; that thereafter the defendants herein, except the defendant Otto Heider continued to divert and cause to be diverted and paid to the defendant Otto Heider upon said purported second note and mortgage additional

large sums of money belonging to and by said Rand Truck Line, Inc., namely: approximately \$1000.00 per month until the month of May, 1949; that as a result of such payment so made by the defendants herein and so received by the defendant Otto Heider, more than \$40,000.00 of monies owned by the said bankrupt corporation, Rand Truck Line, Inc., were diverted from said corporation and the creditors of said corporation and applied upon the aforesaid individual debts and obligations of the defendants, except the defendant Otto Heider; that the defendant Otto Heider with full knowledge that such sums of money belonged to and were assets of said bankrupt corporation, the Rand Truck Line, Inc, received and accepted the same and attempted to apply the same in payment of said personal obligations of the other defendants herein. That no part of said sums have been repaid to the said Rand Truck Line, Inc., or the plaintiff herein.

(Compare objections, R. 21-22, and findings, R. 31-32.)

V.

(Omitted as applying to other defendants.)

VI.

That during said period of time, namely between Sept. 28, 1944 and May 20, 1949, the said Rand Truck Line, Inc., did not earn any profits, in excess of operating costs, and did not have nor acquire any

surplus funds; that the unpaid debts and liabilities of the said Rand Truck Line, Inc., increased and continued to increase during said period; that the monies paid out and received as hereinabove alleged, were not paid out of net profits or surplus; that the execution of said purported notes and mortgages and payment of the moneys paid out and received as aforesaid rendered and caused said Rand Truck Line, Inc., to become and be insolvent and bankrupt, and unable to pay its debts in the ordinary course of business, and with liabilities exceeding in amount the value of its assets, taken at a fair valuation and exclusive of such monies so paid and received as hereinabove alleged. That the time of its adjudication in bankruptcy the said Rand Truck Line, Inc., was indebted to various firms and persons and corporations in a total approximate amount of \$40,000.00. That the execution of said purported notes and mortgages and the payments of money paid out and received as hereinabove alleged, hindered, delayed and defrauded creditors of the said Rand Truck Line, Inc., and were intended to and did deprive said creditors of the assets of said corporation and were intended to and did attempt to discharge the aforesaid personal obligations of the other defendants herein, to Otto Heider, to the detriment and damage of such creditors of said corporation.

(Compare objections, R. 22-23, and findings, R. 33-34, 35.)

## VII.

That the said Rand Truck Line, Inc., received nothing of value nor any consideration whatsoever, in return for the execution of said first note and mortgage or payment of such personal obligations of the defendants; that the Articles of Incorporation of the said Rand Truck Line, Inc., gives or grants to said corporation no power to pledge its credit or borrow money for or on behalf of its stockholders, directors or any other persons whatsoever or to purchase its own stock for and on behalf of itself or any other person; that the purported execution of the said alleged notes and mortgages, and the payment of said sums as hereinabove alleged to the said Otto Heider, was and is beyond the power and authority of said corporation, its officers or directors.

(Compare objections, R. 24, and findings, R. 32-33.)

## VIII.

That the plaintiff herein, the said Samuel A. McAllister is the duly appointed, qualified and acting trustee in bankruptcy for the Rand Truck Line, Inc., an Oregon corporation; that the said Rand Truck Line, Inc., was regularly and duly adjudicated a bankrupt by the District Court of the United States for the District of Oregon on or about May 20, 1949; that as of said date of adjudication in bankruptcy, said corporation was indebted and



owed sums of money to various persons, firms and corporations which said debts and claims existed prior to and antedated the acts, transactions and occurrences hereinabove set out and alleged. That said debts and claims were and are provable claims in bankruptcy, were and are included in the schedules of the said Rand Truck Line, Inc., as obligations owed by said bankrupt and the creditors to whom such debts and claims were and are owed by the said Rand Truck Line, Inc., have heretofore filed claims therefor in such bankruptcy proceedings; that the plaintiff herein has been authorized and empowered by the said District Court of the United States for the District of Oregon to institute this suit; that the plaintiff herein brings this action in his representative capacity as such trustee in bankruptcy for and on behalf of said corporation and for and on behalf of the creditors thereof having claims provable in bankruptcy.

### IX.

That the plaintiff has no plain, complete or adequate remedy at law.

WHEREFORE, Plaintiff prays for a decree of this Court as follows:

1. That the defendants Vern Markee, Florence Markee, Loren Markee, Harold Macy, Beryl B. Taylor and Otto Heider, and each of them, be required to appear herein and account for the moneys

and property owned by Rand Truck Line, Inc., paid by the other defendants herein named and received by the defendant Otto Heider, upon personal obligations of said defendants, and that if the defendants or any of them fail to so appear, that the plaintiff have judgment against the defendants, and each of them, in the sum of \$40,000.00; and

2. That upon such accounting, a judgment be entered in favor of the plaintiff and against the defendants, and each of them, for such sums of money as are found to be due to the plaintiff from the defendants and each of them; and

3. That upon such accounting, a trust be impressed upon the above described real property, in favor of the plaintiff herein, for such sums of money as are found to have been used in the improvement thereof, in violation and derogation of the rights of the Rand Truck Line, Inc., and of the plaintiff herein, and

4. Such other and further Orders, Decrees and Judgments as to this Court seem just and equitable in the premises.

#### **TRUSTEE'S REPLY TO ANSWER OF OTTO HEIDER**

Comes now the plaintiff and, for his reply to the answer and counterclaim of the defendant Otto Heider herein, admits, denies and alleges as follows:

As a matter in abatement, plaintiff alleges:

(Plea in abatement omitted.)



And for his first answer to the merits of said counterclaim of the defendant Otto Heider, plaintiff admits, denies and alleges:

(General denial omitted.)

And for his second answer to the merits of said first, further and separate answer and affirmative defense, the plaintiff alleges:

### I.

That on or about the 28th day of September, 1944, the defendant Otto Heider advanced for the use and benefit of the other defendants herein the sum of \$36,500.00, and the defendants attempted to bind the Rand Truck Line, Inc., to repay the sum of \$43,560.00 in payment therefor and caused said Rand Truck Line, Inc., to execute a note and mortgage purportedly agreeing to repay said sum of \$43,560.00; that included in the amount of said purported note and mortgage in addition to the alleged principal sum was the sum of \$7,060.00 as prepaid interest; that said prepaid interest was computed and included at a rate and in amounts in excess of 10% per annum, namely, at a rate of approximately 10.40% per annum.

(Compare objections, R. 24-25, and generally findings, R. 35-36.)

### II.

That subsequently thereto and after payments had been made by said Rand Truck Line, Inc., in the

amount of \$30,392.00 upon said purported note and mortgage, with a claimed balance due thereon of \$13,168.00, or \$6,108.00 excluding said item of purported prepaid interest, in consideration of claimed advances of \$22,529.00 to the Rand Truck Line, Inc., the defendants herein caused the said Rand Truck Line, Inc., to execute a purported note and mortgage in the amount of \$43,560.00, which note and mortgage purported to include the alleged balance upon said first note and mortgage of \$13,168.00, such claimed advances of \$22,529.00 and prepaid interest in the amount of \$7,533.00. That said prepaid interest was computed and included at a rate and in amounts in excess of 10% per annum, namely, at a rate of approximately 11.275% per annum if the prepaid interest item of said first purported note and mortgage is included in the alleged principal amount or approximately 28.1% if the prepaid interest item of said first purported note and mortgage is excluded therefrom.

(Compare objections, R.25, and generally findings, R.35-36.)

### III.

That the purported agreements of the Rand Truck Line, Inc., to pay said sums representing prepaid interest were demanded and received by the defendant Otto Heider, and acquiesced to by the other defendants as the purported consideration for the alleged extension of time evidenced by said pur-

ported notes and mortgages for the payment of said alleged debts and were included and added to the balances claimed to be due from the Rand Truck Line, Inc., to the defendant Otto Heider knowingly and with the intent on the part of the defendants to collect and receive and to have the said Rand Truck Line, Inc., pay interest on such claimed indebtednesses at a rate in excess of 10% per annum.

(Compare objections, R-25-26, and generally findings, R-35-36.)

#### IV.

That the defendant Otto Heider received and accepted said purported notes and mortgages with full knowledge of the facts herein alleged.

(Compare objections, R. 26, and findings, R. 35-36.)

#### V.

That funds of the Rand Truck Line, Inc., in excess of \$59,029.00 were paid to the defendant Otto Heider, as alleged in plaintiff's complaint, and any purported balance claimed to be due to the said Otto Heider on said purported notes and mortgages were and are balances representing usurious interest charges computed at a rate in excess of 10% per annum, as hereinabove set out.

(Compare objections, R. 26, and generally findings, R. 35-36.)

WHEREFORE, having fully replied to the answer and counterclaim of the defendant Otto Heider, plaintiff prays that the defendant Otto Heider take nothing by reason thereof, and that plaintiff have the decree of this Court in accordance with the prayer of his fourth amended complaint.

### EXHIBIT "B"

In the following table are shown in adjoining columns page references to the record where the exhibits were identified, offered, received, or rejected as evidence:

#### EXHIBIT

No.	EXHIBIT	PAGE
1	Document entitled "Payment by Markee"	55
2	Sheaf of checks	57
3	Promissory Note	61
4	Mortgage dated July 11, 1946, and accompanying papers	78-187
5	Letter dated November 28, 1947	84
6	Mortgage to Mrs. R. R. Rand dated September 28, 1944	92
7	Corporate Minutes	92
8	Sheaf of receipts	97
9	Tabulation	104
10	Assignment of Mortgage and Note	106

11	Copy of Bill of Sale	110
12	Chattel Mortgage and Note	132
13	Copy of Contract between Markee and Rand	146
14	Sheaf of papers—comparative Balance Sheet	174, 176
15	Certified copy of Articles of Incorporation	174, 176
16	Check dated November 2, 1945	181, 182
17	Promissory Note dated October 31, 1945, attached to a Chattel Mortgage	182
18	Conditional Sales Contract	187, 188
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